



01/23/1998
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII, MONTANA OFFICE
FEDERAL BUILDING, 301 S. PARK, DRAWER 10096
HELENA, MONTANA 59626-0096

SDMS Document ID



1061628

Ref: 8MO

For Immediate Release
January 23, 1998

John Wardell (406) 441-1123
Susan Zazzali (406) 441-1123

ASARCO, EPA REACH AGREEMENT ON ALLEGED VIOLATIONS OF FEDERAL LAWS; PENALTIES EXCEED \$3 MILLION

Helena--A two year EPA investigation of waste management practices at the ASARCO, Inc.(ASARCO) East Helena lead smelter, and at other ASARCO U.S. facilities, revealed five years of violations of federal environmental laws. To resolve issues raised by the investigation, ASARCO has agreed to pay penalties to the U.S. Treasury, and has agreed to implement several beneficial projects and regulatory corrective measures. "We worked cooperatively with ASARCO to reach a mutually agreeable resolution of these issues," said John Wardell, Director of the EPA Region 8 Montana Office.

ASARCO has agreed to pay \$3,386,100 for settlement of violations at their East Helena facility, including: \$1,036,100 for violation of Clean Water Act(CWA) requirements and \$2,350,000 for violating Resource Conservation and Recovery Act(RCRA) hazardous waste management requirements. Today, Consent Decrees are being filed simultaneously in U.S. District Courts in Helena, Montana and Phoenix, Arizona. The Arizona Decree addresses Clean Water Act violations at the ASARCO Ray Mine complex. The public has thirty days to review and comment on the Decrees.

In addition to paying penalties for the violations, ASARCO has agreed to implement a corrective nation-wide environmental management system (EMS), to implement a "supplemental environmental project" (SEP) to restore vegetation at the "Upper and Lower Lakes," located on the east side of the smelter complex, and to transfer its responsibility for the ongoing cleanup of the facility from the Superfund program to requirements in the Decree for RCRA corrective action.

The EMS is designed to achieve compliance with all environmental requirements at ASARCO facilities nation-wide. The SEP is estimated to cost over \$255,000 initially and approximately \$75,000 per year to maintain. Finishing the facility-wide cleanup under RCRA, in all likelihood, will be less expensive for ASARCO than under the Superfund process, in part because under the terms of the decree ASARCO is not obligated to pay EPA to oversee the RCRA cleanup. However, the cleanup is expected to provide the same degree of human health



Printed on Recycled Paper

and environmental protection as would have been achieved under Superfund. The Superfund program will continue the residential and agricultural soils cleanup as proposed in the October 1997 East Helena Residential and Agricultural Soils Proposed Plan.

"The terms of this settlement show how the regulated community can work with the government to resolve complex environmental and legal problems and come up with solutions that benefit the community and the environment, and conserve both parties' resources for activities more productive than litigation," said Bill Yellowtail, Regional Administrator for EPA's Region 8 (Denver). "If ASARCO fully complies with all of the requirements of the decree, as we expect, everyone, including ASARCO and all of the people in the communities in which ASARCO operates, will benefit," he continued. The decree does allow EPA to impose penalties if ASARCO fails to honor the obligations it has agreed to in the decree.

For several years, ASARCO has internally managed wastes with the chemical characteristics of hazardous wastes without a permit, in violation of the RCRA regulations. Also, ASARCO has violated clean water regulations by discharging polluted water into Prickly Pear Creek via Lower Lake. Any discharge of waste water into navigable waters of the United States must be authorized by a permit under the Clean Water Act "National Pollutant Discharge Elimination System(NPDES)", or its Montana equivalent.

DESCRIPTION OF RCRA VIOLATIONS

RCRA is the federal statute which regulates the treatment, storage, and disposal of hazardous wastes.

During a period beginning in May of 1991, or earlier, until the autumn of 1996, ASARCO sprayed plant process water on the ground for dust suppression. The plant process water contained chemicals characteristic of hazardous waste (lead and arsenic).

Beginning in January 1992, or earlier, through January, 1997, ASARCO both generated and received spent refractory brick (furnace lining) from other ASARCO facilities. The refractory brick was stored, treated and disposed of without a RCRA permit. Refractory brick is a hazardous waste due to high concentrations of chromium, lead, and cadmium.

Beginning in January 1992, ASARCO stored, treated, and disposed of spent carbon from cyanide heap leach gold mining facilities. Spent carbon often contains high concentrations of mercury and cyanide.

In January 1995, ASARCO generated a "high density sludge filter cake," and disposed of it on the ground at the facility. The filter cake is a hazardous waste due to high concentrations of arsenic, cadmium, and mercury.

In the spring of 1996, ASARCO stored, treated and disposed of caustic slag from an off-site stainless steel manufacturer. The caustic slag is a hazardous waste due to high concentrations of chromium.

Since June 1996, ASARCO has excavated plant soils during on-site construction activities. ASARCO failed to determine if the soils are a hazardous waste. The plant soils were later determined to be hazardous waste because they contained high concentrations of lead, arsenic and cadmium.

DESCRIPTION OF CLEAN WATER ACT VIOLATIONS

The Clean Water Act protects our Nation's waters from being contaminated. This is accomplished by requiring permits in order to discharge any pollutants. A permit will set limits on the acceptable amounts of pollutants that can be discharged, so that the "receiving waters" are not degraded. The Federal program authorizing the issuance of permits has been delegated to the State of Montana Department of Environmental Quality.

Beginning in May, 1991 ASARCO discharged quantities of wastewater with high metal levels from the East Helena plant, including the High Density Sludge Facility, to a surface impoundment called Lower Lake. Lower Lake sits next to and is hydrologically connected to Prickly Pear Creek, so water from Lower Lake was seeping directly to the Creek. During the time of the discharges, ASARCO did not have a Montana Pollution Discharge Elimination System (MPDES) permit. In November, 1994 ASARCO submitted an application for an MPDES permit to discharge to Prickly Pear Creek. Montana issued a permit for this discharge on November 1, 1996.

The Consent Decree may be viewed at the office of the Clerk of Court, U.S. Federal District Court, on the fifth floor of the Federal Building, 301 S. Park, Helena.

###